

Waste Management Co. of Colorado
R/A: CT Corp System

Case Type: Wrongful Death

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Emma Ferrell, Trustee for the Next-of-
Kin of Cortney Ferrell, deceased

Plaintiff,

SUMMONS

v.

Waste Management Company of
Colorado, Inc. and Dwight Emery
Esquibel

Defendants.

THIS SUMMONS IS DIRECTED TO ABOVE-NAMED DEFENDANTS:

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.
2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:

Schwebel Goetz & Sieben
5120 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.
4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide

EXHIBIT A

you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**
6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

I hereby acknowledge that sanctions may be awarded pursuant to Minn. Stat. § 549.211.

SCHWEBEL GOETZ & SIEBEN, P.A.

Dated: 5/23/22

By W. R. Sieben
William R. Sieben (#100808)
James S. Ballentine (#209739)
ATTORNEYS FOR THE PLAINTIFF
5120 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2246
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Email: bsieben@schwebel.com
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Case Type: Wrongful Death

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

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Emma Ferrell, Trustee for the Next-of-
Kin of Cortney Ferrell, deceased,

Plaintiff,

COMPLAINT

v.

Waste Management Company of
Colorado, Inc. and Dwight Emery
Esquibel,

Defendants.

Plaintiff Emma Ferrell, for her claims for relief states and alleges that:

I

On November 2, 2020, at 7:10 a.m., plaintiff Cortney Ferrell was working at Advanced Disposal located at 309 West Como in St. Paul, Minnesota. At that time and place, plaintiff Cortney Ferrell backed his truck into the tipping room, exited his truck and walked to the rear of his truck. At said time and place, defendant Dwight Esquibel, who was in the course and scope of his employment with defendant Waste Management Company of Colorado, Inc. was working with a "loader" loading trash into the trash barn when he backed his loader into plaintiff's truck pinning plaintiff between the truck and the loader causing massive injuries to plaintiff.

II

As a result of severe injuries suffered in this accident, Cortney Darrell Ferrell, Deceased died.

EXHIBIT A

III

Said crash was the result of the carelessness, recklessness and negligence of defendant Dwight Emery Esquibel in his failure to keep a proper lookout and in his failure to keep his loader under control. Said crash also occurred because of other acts of negligence on defendant's part.

IV

A Hennepin County District Court Judge appointed Emma Ferrell as wrongful death trustee in a March 11, 2021, Order.

V

Defendant Waste Management Company of Colorado, Inc. is vicariously liable for the causal negligence of defendant Dwight Emery Esquibel under Minnesota law because – upon information and belief – it owned the loader which Dwight Emery Esquibel operated at the time of the above crash. Defendant Waste Management Company of Colorado, Inc. also is vicariously liable for defendant Esquibel's causal negligence because defendant Esquibel was in the course and scope of his employment with defendant Waste Management Company of Colorado, Inc. at the time of the crash.

VI

As a result of the death of Cortney Darrell Ferrell, Deceased, his next-of-kin have suffered the loss of support and other pecuniary loss, have paid out certain sums of money providing for a proper funeral and burial, and have otherwise suffered damages and pecuniary loss, all to their damage in an amount greater than Fifty Thousand and no/100 (\$50,000) Dollars.

I hereby acknowledge that sanctions may be awarded pursuant to Minn. Stat. § 549.211.

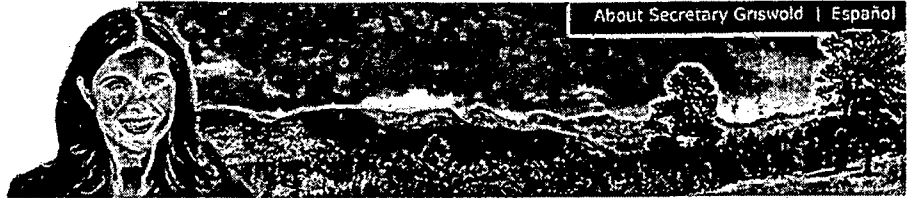
SCHWEBEL GOETZ & SIEBEN, P.A.

Dated: 5/23/22

By William R. Sieben
William R. Sieben (#100801)
James S. Ballentine (#209739)
ATTORNEYS FOR THE PLAINTIFF
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Minneapolis, Minnesota 55402-2246
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Email: bsieben@schwebel.com
Email: jballentine@schwebel.com

5/31/22, 4:08 PM

Colorado Secretary of State - Summary

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Summary

Details			
Name	WASTE MANAGEMENT OF COLORADO, INC.		
Status	Good Standing	Formation date	07/01/1963
ID number	19871240963	Form	Corporation
Periodic report month	July	Jurisdiction	Colorado
Principal office street address	800 CAPITOL STREET, SUITE 3000, HOUSTON, TX 77002, United States		
Principal office mailing address	800 CAPITOL STREET, SUITE 3000, HOUSTON, TX 77002, United States		

Registered Agent	
Name	C T Corporation System
Street address	7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, United States
Mailing address	n/a

[Filing history and documents](#)
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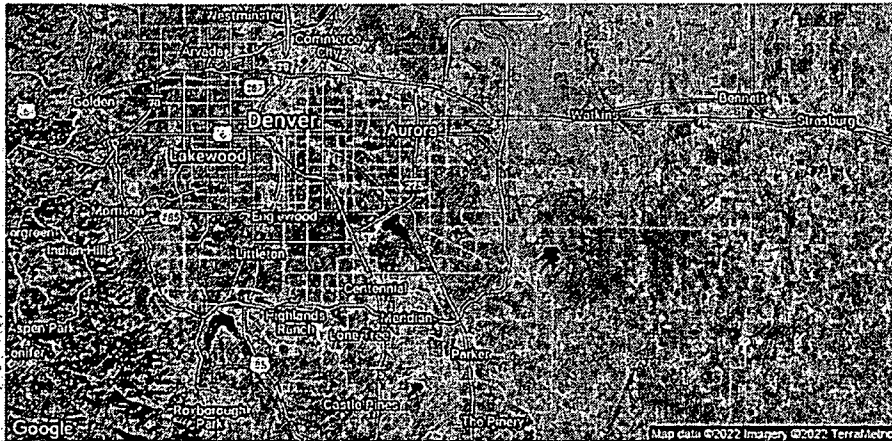
PeopleMap Person Record
 DWIGHT E ESQUIBEL

05/31/2022 16:28:04

Client ID: ADDRESS

DWIGHT E ESQUIBEL

3960 S TRUCKEE CT, AURORA, CO 80013-3142 | ARAPAHOE County

**SSN:**

523-11-XXXX

DOB:

01/XX/1971 (Age: 51)

Gender:

MALE

Drivers License #:

920673XXX - CO

AKAs:

DEWIGHT ESQUIBEL

DWIGHT ESQUIBEL

DWIGHT ESQUIPEL

DWIGHTE ESQUIBEL

DWIGHT E. ESQUIBEL

E. ESQUIBEL DWIGHT

DWIGHT EMERY ESQUIBEL

Phone Numbers:

719-672-4191

719-298-7300

390-7710

Known Addresses:

3960 S TRUCKEE CT, AURORA, CO 80013-3142 | ARAPAHOE County

First Reported 01/01/2021 Last Reported 04/01/2022

By Experian Credit Header 01/27/2021 - 04/01/2022

By Motor Vehicle 02/28/2022

By People Find 03/24/2021

By New Movers 03/12/2021

Case Type: Wrongful Death

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Emma Ferrell, Trustee for the Next-of-
Kin of Cortney Ferrell, deceased

Plaintiff,

AMENDED SUMMONS

v.

Waste Management Disposal Services of
Colorado, Inc. and Dwight Emery
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Defendants.

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EXHIBIT B

against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**
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SCHWEBEL GOETZ & SIEBEN, P.A.

Dated: June 17, 2022

By /s/ William R. Sieben
William R. Sieben (#100808)
James S. Ballentine (#209739)
ATTORNEYS FOR THE PLAINTIFF
5120 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2246
Telephone: 612-377-7777
Fax: 612-333-6311
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Case Type: Wrongful Death

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Emma Ferrell, Trustee for the Next-of-
Kin of Cortney Ferrell, deceased,

Plaintiff,

v.

Waste Management Disposal Services
of Colorado, Inc. and Dwight Emery
Esquibel,

Defendants.

AMENDED COMPLAINT

Plaintiff Emma Ferrell, for her claims for relief states and alleges that:

I

On November 2, 2020, at 7:10 a.m., plaintiff Cortney Ferrell was working at Advanced Disposal located at 309 West Como in St. Paul, Minnesota. At that time and place, plaintiff Cortney Ferrell backed his truck into the tipping room, exited his truck and walked to the rear of his truck. At said time and place, defendant Dwight Esquibel, who was in the course and scope of his employment with defendant Waste Management Disposal Services of Colorado, Inc. was working with a “loader” loading trash into the trash barn when he backed his loader into plaintiff’s truck pinning plaintiff between the truck and the loader causing massive injuries to plaintiff.

II

As a result of severe injuries suffered in this accident, Cortney Darrell Ferrell, Deceased died.

III

Said crash was the result of the carelessness, recklessness and negligence of defendant Dwight Emery Esquibel in his failure to keep a proper lookout and in his failure to keep his loader under control. Said crash also occurred because of other acts of negligence on defendant's part.

IV

A Hennepin County District Court Judge appointed Emma Ferrell as wrongful death trustee in a March 11, 2021, Order.

V

Defendant Waste Management Disposal Services of Colorado, Inc. is vicariously liable for the causal negligence of defendant Dwight Emery Esquibel under Minnesota law because – upon information and belief – it owned the loader which Dwight Emery Esquibel operated at the time of the above crash. Defendant Waste Management Disposal Services of Colorado, Inc. also is vicariously liable for defendant Esquibel's causal negligence because defendant Esquibel was in the course and scope of his employment with defendant Waste Management Disposal Services of Colorado, Inc. at the time of the crash.

VI

As a result of the death of Cortney Darrell Ferrell, Deceased, his next-of-kin have suffered the loss of support and other pecuniary loss, have paid out certain sums of money providing for a proper funeral and burial, and have otherwise suffered damages and pecuniary loss, all to their damage in an amount greater than Fifty Thousand and no/100 (\$50,000) Dollars.

WHEREFORE, Plaintiff Emma Ferrell prays judgment against defendants, and each of them, in an amount greater than Fifty Thousand and no/100 (\$50,000) Dollars, together with interest, costs and disbursements incurred.

I hereby acknowledge that sanctions may be awarded pursuant to Minn. Stat. § 549.211.

SCHWEBEL GOETZ & SIEBEN, P.A.

Dated: June 17, 2022

By 
William R. Sieben (#100801)
James S. Ballentine (#209739)
ATTORNEYS FOR THE PLAINTIFF
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Fax: 612-333-6311
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Email: jballentine@schwebel.com

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Emma Ferrell, Trustee for the Next-of-Kin
of Cortney Ferrell, deceased,

Court File No.

Plaintiff,

v.

Waste Management Disposal Services of
Colorado, Inc. and Dwight Emery
Esquibel,

Defendants.

**DEFENDANTS WASTE
MANAGEMENT DISPOSAL
SERVICES OF COLORADO, INC.
AND DWIGHT EMERY ESQUIBEL'S
VERIFIED JOINT ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S AMENDED
COMPLAINT**

Defendants Waste Management Disposal Services of Colorado, Inc. (WM of Colorado) and Dwight Emery Esquibel (Esquibel) (collectively, Defendants), by and through undersigned counsel, for their Verified Joint Answer and Affirmative Defenses to Plaintiff's Amended Complaint (Amended Complaint) deny each and every allegation contained in the Amended Complaint except as expressly admitted, qualified or otherwise responded to herein, and further respond as follows:

1. With respect to the allegations in the first sentence of paragraph I of the Amended Complaint, admit that Cortney Ferrell (Ferrell) was working at 309 West Como in St. Paul, Minnesota (Transfer Station) at approximately 7:10 a.m. on November 2, 2020; deny remainder. Admit the allegations in the second sentence of paragraph 1 of the Amended Complaint. The allegations in the third sentence of paragraph 1 of the Amended Complaint contain statements of legal conclusions to which no response is required; to the extent that a response is deemed to be required, admit only that Esquibel was working at

the Transfer Station on November 2, 2020, in the course and scope of his employment with WM of Colorado, operating a loader moving trash on the Transfer Station tipping floor and struck Ferrell with the loader resulting in injuries to Ferrell; Ferrell was dropping off trash at the tipping floor at the time of the accident; deny remainder. With respect to such allegations in paragraph I of Plaintiff's Complaint, state as follows: (1) Advanced Disposal Services, Inc. (ADS) and WM of Colorado were engaged in a common enterprise at the Transfer Station at the time of the accident; (2) ADS merged with Waste Management, Inc. (WM Inc.) on Friday, October 30, 2020, three days before the accident in question; (3) workers at the Transfer Station employed by ADS and WM of Colorado were provided with "Waste Management" clothing on Monday, November 2, 2020, including for example, hats, shirts and safety vests; (4) workers at the Transfer Station employed by ADS and WM of Colorado interchangeably used the east and west sides of the tipping floor; (5) the site manager overseeing the work being done by Ferrell and Esquibel at the Transfer Station was an employee of ADS; (6) the loader which Esquibel was operating was a Ziegler Cat (Ziegler) loader that was leased by ADS from Ziegler; and (7) Ferrell and Esquibel were working together in the same operations at the Transfer Station in furtherance of the same or related purpose at the time of the injury.

2. Admit paragraph II of the Amended Complaint.

3. The allegations in paragraph III of the Amended Complaint contain statements of legal conclusions to which no response is required; to the extent that a response is deemed to be required, deny same.

4. Based upon information and belief, admit paragraph IV of the Amended Complaint.

5. The allegations in paragraph V of the Amended Complaint contain statements of legal conclusions to which no response is required; to the extent that a response is deemed to be required, deny WM of Colorado owned the loader which Esquibel was operating; lack sufficient knowledge and information to admit or deny the remaining allegations in paragraph V of the Amended Complaint and therefore deny same; and with respect to such allegations, state that the loader which Esquibel was operating was a Ziegler loader that was leased by ADS from Ziegler.

6. Deny the allegations in paragraph VI of the Amended Complaint and, with respect to such allegations, state as follows: (1) Ferrell and his next-of-kin have elected to receive certain sums of money through worker's compensation benefits for the injuries at issue; and (2) have received certain sums of money through worker's compensation benefits for the injuries at issue.

AFFIRMATIVE DEFENSES

1. The Amended Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. Plaintiff's damages, if any, were caused and contributed by Ferrell's own actions or inactions or the actions or inactions of other third parties over whom WM of Colorado and/or Esquibel had no control.

3. Plaintiff's damages, if any, were caused by Ferrell's own contributory fault or negligence which bars Plaintiff's claims in whole or in part.

4. Plaintiff lacks standing.
5. Plaintiff's claims are barred by any applicable statute of limitations, statute of repose and doctrines of waiver and estoppel.
6. Plaintiff's damages, if any, are barred, in whole or in part, by the principles of assumption of risk and informed consent.
7. Plaintiff's claims are barred because she has suffered no loss or damages for which either/both Defendant(s) is/are responsible.
8. Plaintiff's claims are barred by the Minnesota Workers' Compensation Act.
9. Plaintiff's claims are barred by Minn. Stat. § 176.061 and the principles of the common enterprise doctrine, loaned servant doctrine and alter ego.
10. Defendants reserve the right to state and allege such other additional and affirmative defenses which become known or are discovered by Defendants, through discovery or otherwise, during the course of this litigation.

PRAYER FOR RELIEF

WHEREFORE, Defendants WM of Colorado and Esquibel respectfully request that this Court:

1. Dismiss with prejudice all claims asserted in the Amended Complaint;
2. Award to Defendants their costs, disbursement and attorneys' fees as allowed by law; and
3. Award Defendants any other and further relief the Court deems just and appropriate.

DATED: July 1, 2022

**TAFT STETTINIUS & HOLLISTER
LLP**

By: /s/ Thomas J. Basting, Jr.
Thomas J. Basting, Jr. (#01020231)
Brayanna J. Bergstrom (#0401770)
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2157
Telephone: (612) 977-8400
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bbergstrom@taftlaw.com

MCCOLLUM CROWLEY

By: /s/ Jacob M. Tomczik
Jacob M. Tomczik (#0325375)
7900 Xerxes Avenue South, Suite 700
Bloomington, MN 55431
Telephone: (952) 345-9752
Email: jmt@mccollumlaw.com

**ATTORNEYS FOR DEFENDANTS
WASTE MANAGEMENT DISPOSAL
SERVICES OF COLORADO, INC. AND
DWIGHT EMERY ESQUIBEL**

VERIFICATION

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Scott Bradley, have read the contents of the above Verified Answer. Based on my personal knowledge, the facts stated therein, including the attached exhibits, are true, excepting those facts which are stated upon information and belief. Based upon reliable information, I believe that the facts stated upon information and belief are true.

/s/ Scott Bradley

Case Type: Wrongful Death

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

**In the matter of the appointment of a
trustee for the next-of-kin of
Cortney Darrell Ferrell, Decedent.**

**PETITION FOR
APPOINTMENT OF
TRUSTEE**

Your petitioner respectfully represents to the court:

1. That she is the surviving spouse of the above-named decedent;
2. That said decedent was born on April 28, 1986 in St. Paul, Minnesota, and died on November 2, 2020 at 309 West Como Avenue, St. Paul, Minnesota 55103, in Ramsey County, then residing at 7106 Quail Avenue NE in Otsego, Minnesota.
3. That the names, ages, relationship and addresses of the surviving spouse and next-of-kin of the decedent are:

NAME	DOB/AGE	RELATIONSHIP	ADDRESS
Emma Ferrell	02/24/1988	Spouse	7106 Quail Avenue NE Otsego, MN 55330
Nolan Ferrell, a Minor	07/24/2016	Son	7106 Quail Avenue NE Otsego, MN55330
Nina Ferrell, a Minor	06/29/2018	Daughter	7106 Quail Avenue NE Otsego, MN55330
Latonia Ferrell	01/06/67	Mother	392 Edmund Avenue West St. Paul, MN 55103
Darryl Bragg	08/27/65	Father	700 Francis Street Joliet, IL 60432
Pierre Ferrell	01/13/85	Brother	1550 Parkwood Drive, #320 Woodbury, MN 55125
Anthony Banks	03/12/88	Brother	1032 Lake Elmo Drive, Lot 13 Billings, MT 59105

Victoria Bragg	01/14/92	Sister	700 Francis Street Joliet, IL 60432
Darryl Bragg, Jr.	08/25/93	Brother	700 Francis Street Joliet, IL 60432
Nicholas Bragg	05/30/95	Brother	700 Francis Street Joliet, IL 60432

4. That the death of the decedent was caused by the wrongful act or omission of Advanced Disposal (*Subsidiary of Waste Management*), 309 West Como Avenue, St. Paul, MN 55103 on November 2, 2020, and that a cause of action therefore exists under M.S.A. 573.02.

5. That no previous application has been made to any court for the appointment of any trustee.

6. That Emma Ferrell who is ³²34 years of age, and whose occupation is cardio ultrasound specialist at St. Cloud Hospital, and whose address is 7106 Quail Avenue NE, Otsego, MN 55330, is a suitable and competent person to be appointed as trustee to maintain such action according to law.

WHEREFORE, your petitioner prays that Emma Ferrell be appointed such trustee.

I declare under penalty of perjury that everything
I have stated in this document is true and
correct, pursuant to Minn. Stat. § 358.116

Dated: 2/7/2021

Emma Ferrell
Emma Ferrell

I hereby consent to act as Trustee herein.

Dated: 2/7/2021

Emma Ferrell
Emma Ferrell